

# UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF WISCONSIN

In the Matter of the Seizure of  
(Address or brief description of property or premises to be seized)

APPROXIMATELY \$144,750.64 IN UNITED STATES  
CURRENCY ON DEPOSIT IN JP MORGAN CHASE BANK  
ACCOUNT ENDING IN 2123, LOCATED AT JP MORGAN  
CHASE BANK IN MILWAUKEE, WISCONSIN

Case Number: 13-850M(NJ)

### APPLICATION FOR A WARRANT TO SEIZE PROPERTY SUBJECT TO FORFEITURE

I, Park Jones, being duly sworn depose and say:

I am a Special Agent assigned to the Internal Revenue Service, and have reason to believe that in the Eastern District of Wisconsin there is now certain property that is subject to forfeiture to the United States, namely approximately \$144,750.64 in United States Currency in JP Morgan Chase Bank Account ending in 2123, located at JP Morgan Chase Bank in Milwaukee, Wisconsin, which property is forfeitable under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, as property constituting or derived from proceeds of the offense of theft of government property, in violation of 18 U.S.C. § 641, and which property is subject to seizure for purposes of both civil forfeiture and criminal forfeiture under 18 U.S.C. § 981(b) and 21 U.S.C. § 853(f), as made applicable by 28 U.S.C. § 2461.

The application is based on these facts:

- Continued on the attached sheet.  
 Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_  
is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

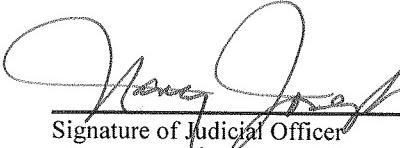
Sworn to before me, and subscribed in my presence

May 9, 2013, 2:10 pm  
Date and time issued

  
\_\_\_\_\_  
Signature of Affiant  
Park Jones SA, IRS

at Milwaukee, Wisconsin  
City and State

NANCY JOSEPH, U.S. Magistrate Judge  
Name & Title of Judicial Officer

  
\_\_\_\_\_  
Signature of Judicial Officer

## **AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEIZURE WARRANT**

I, Park Jones, having been duly sworn on oath, state as follows:

### **Affiant's Background**

1. I am employed as a Special Agent with the Internal Revenue Service, Criminal Investigation Division (IRS-CI) and have been so employed since September 2005. As a Special Agent, my responsibilities include the investigation of potential criminal violations of the Internal Revenue Code under Title 26 of the United States Code as well as related Title 18 and Title 31 offenses.

2. I am currently assisting IRS-CI Special Agent Patrick Debbink in this investigation. SA Debbink has been employed by IRS-CI for 18 years. SA Debbink has been involved in this investigation since August 2011. In addition, the information contained in this affidavit is based on my personal knowledge, information that I received from SA Debbink and other law enforcement officers, and information I have learned from the other sources specifically discussed herein.

### **Purpose of Affidavit**

3. Based on the totality of the facts and circumstances contained in this affidavit, I submit that there exists probable cause to believe that Marina Andino, through an entity identified as Marina's Tax Service, has been involved in a scheme to defraud the United States by preparing and filing false income tax returns, fraudulently obtaining federal income tax refund checks based on those false returns, and knowingly converting the proceeds of those tax refund checks to her own use, in violation of 18 U.S.C. § 641.

4. Because I am submitting this affidavit for the limited purpose of establishing probable cause for the issuance of a seizure warrant, I have not included each and every fact I know about this investigation. Rather, I have set forth only the facts that I believe are necessary to establish a finding of probable cause to support the issuance of a seizure warrant.

### **Applicable Statutes and IRS Regulations and Provisions**

5. Every person who earns United States (U.S.) source income is required to pay taxes. U.S. citizens are required to pay taxes on worldwide income from whatever source derived. The IRS typically treats any individual living in the U.S., either legally or illegally, as a resident alien and they are taxed on their worldwide income and are required to file an income tax return just like all US citizens.

6. Every person who files a U.S. income tax return must provide a taxpayer identification number when the person file that return. For American citizens or resident aliens who entered the United States legally, this would typically be a Social Security Number (SSN). However, individuals, such as resident and non-resident aliens who are not eligible for a SSN, must apply for an Individual Taxpayer Identification Number (ITIN). An ITIN is for tax use

only and does not change a taxpayer's immigration status or their legal right to work in the U.S. An ITIN can be distinguished from an SSN because the first number is a nine and the fourth and fifth numbers are between 70-99. Only resident aliens and nonresident aliens (having earned income in the United States and therefore required to file a federal individual income tax return) who do not have, and are not eligible for, a social security number may apply for an ITIN.

7. In order to obtain an ITIN, a taxpayer must submit a Form W-7, Application for IRS Individual Taxpayer Identification Number, to the IRS. With the application, the taxpayer must submit either an original passport or two original forms of identification, including a national ID card, birth certificate, school record, vaccination record, and/or some other identifying document. In lieu of originals, the taxpayer may provide copies, but only if the copies are certified to be true and correct copies by a notary public. An ITIN applicant must demonstrate a tax purpose for an ITIN. A tax purpose can be shown by including an original income tax return with the application. An individual who can be claimed as a dependent on an individual income tax return has a tax purpose for an ITIN.

8. An IRS Acceptance Agent is a person, business, or organization authorized by the IRS to help immigrants and other foreign people obtain an ITIN, or an Employer Identification Number, if the immigrant is ineligible to receive a Social Security Number. A Certifying Acceptance Agent (CAA) is an Acceptance Agent who can provide even more assistance to the immigrant in the ITIN application process. CAAs can also verify the applicant's claim of identity and foreign status by reviewing the required documents and verifying that the supporting documents are real, accurate and complete. The CAA can submit a Form W-7, Application for IRS Individual Taxpayer Identification Number, a federal income tax return, and any other required documents to the IRS. Once the ITIN is issued, the CAA receives the applicant's number directly from the IRS.

9. The IRS has identified ITIN tax refund schemes involving false Forms W-7 and false individual income tax forms (i.e., Forms 1040) perpetrated throughout the country. The characteristics of an ITIN tax refund scheme include:

- Filing of U.S. Individual Income Tax Returns (Forms 1040 and/or 1040EZ);
- Use of Hispanic surnames for taxpayer names;
- Use of "Family Packs" where the tax returns are accompanied by multiple Forms W7, Applications for an ITIN, for multiple dependents who purportedly reside in Mexico and for which dependent the filer claims to have provided at least 50% of the support;
- Use of numerous dependents to claim multiple dependency exemptions and increase the Additional Child Tax Credit (ACTC). The ACTC is a refundable tax credit which was intended by the U.S. Congress to lower the tax burden of families who are raising children. As a credit, the ACTC reduces a tax liability dollar for dollar. As a refundable credit, the unused portion of the ACTC may be refunded to a qualifying taxpayer. Thus, even if an individual is not required to file a federal income tax

return, an individual who qualifies for the ACTC can file a proper tax return claiming the ACTC and receive a refund for the ACTC;

- Filing Status of Head of Household;
- Wage and income tax withholding that cannot be verified through contacts with the named employer or by searches in the IRS's database for matching wage information filed by the named employer;
- Paper filing, as opposed to electronic filing, of individual income tax forms (i.e., Forms 1040); and
- Tax refund claims that request paper federal tax refund checks to be mailed to the purported taxpayer addresses, as opposed to requesting direct deposits into a traceable bank account. Perpetrators are known to search the IRS website to learn when the IRS has issued the fraudulently obtained tax refund checks so that the perpetrator knows when to pick the check up at the address used.

10. Title 18, United States Code, Section 641, which forbids the theft of public funds, makes it a felony to embezzle, steal, or convert to one's own use any thing of value of the United States having a value exceeding \$1,000, or to receive, conceal, or retain any such thing of value of the United States having a value exceeding \$1,000, with the intent to convert it to one's use, knowing it to have been embezzled, stolen, or converted.

### **Facts Supporting Finding of Probable Cause**

#### **Marina Andino and Marina's Income Tax Services**

11. Marina L. Andino is the owner of Marina's Income Tax Services, 1121 West Oklahoma Avenue, Milwaukee, Wisconsin. According to online corporate records, Marina's Income Tax Services LLC was formed in March 2008. In addition to preparing and filing income tax returns for individuals in the community, Marina's Income Tax Services is a CAA under an agreement entered into with the Internal Revenue Service on March 3, 2007.

12. According to information provided by the IRS Scheme Development Center (IRS-SDC), Mariana's Income Tax Services prepares returns primarily for non-resident aliens who claim dependents who do not live in the United States. The IRS-SDC discovered that Mariana's Tax Service had prepared both paper and electronically filed (ELF) tax returns which totaled the following:

- During the 2010 filing season, Mariana's Income Tax Service filed 2,713 returns seeking over \$9 million in refunds.
- During the 2011 filing season, Mariana's Income Tax Service filed 2,859 returns seeking over \$10 million in refunds.

- During the 2012 filing season, Marina's Income Tax Service filed 3,005 returns seeking \$12 million in refunds.

## Sources of Information

13. Information source #1 (SOI#1), a Spanish-speaking individual residing in Milwaukee, has provided information about the scheme and participants in the scheme. SOI#1's spouse, information source #2 (SOI#2), has also provided information. Neither has status in the U.S. and both are residing in the United States illegally. According to SOI#1 and SOI#2, the people whom they best know who are involved in the ITIN scheme reside in Milwaukee, Wisconsin, and Veracruz, Mexico, and center around a family of eleven brothers and sisters with the last name of Gamboa-Yepez (Gamboa Family). These eleven family members, their children, and people associated with their children, are participants in the scheme.

14. The scheme relies on paperwork that unknown individuals assemble within a folder. That paperwork includes:

- False W-2's that are either created or stolen. At one point, SOI#1 and SOI#2 had heard that W-2's were being couriered from Delaware to Milwaukee.
- Mexican identification cards matching the name on the W-2s. Initially, IDs were being produced by someone with a computer and a high-quality printer. During an interview with SOI#1 on October 26, 2011, SOI#1 stated that scheme participants living in Mexico were purchasing Mexican identification documents from Mexican locals for \$100, and shipping the documents to the United States so that the identification documents could be used in the scheme. This was occurring because there was a rumor that the IRS had identified scheme participants who were using fake names to file fraudulent returns. So the scheme participants now planned to purchase and use actual identities for filing tax returns and obtaining refunds.
- Mexican birth certificates for children who will be claimed as dependents on the income tax returns.
- Mexican school records for the children.

15. The information within the folder is used to obtain ITINs and to generate the false tax returns not only for the current year but for the previous two or three years as well. This folder also serves as a commodity that either can be sold to someone else, typically for \$1,500 to \$2,000, or can be used by someone who will pose as the person identified in the folder. If the file owner hires someone to pose as the person, the file owner will pay the poser a few hundred dollars for their work.

16. Under either scenario, the individual who is assuming the identity of the person in the folder will take possession of the folder and go to Marina's Tax Service to have a number of income tax returns fraudulently prepared. According to SOI#2, in order to go into Marina's Tax Service and have returns fraudulently prepared, a person must have a recommendation from someone known to Marina's Tax Service. So, the first time a person gets involved in this

scheme, someone known to Marina's Tax Services will accompany that person. An individual going into Marina's Tax Service "cold" will not be provided with the service of having false tax returns fraudulently prepared.

17. In August or September 2012, associates of SOI#1 involved in the ITIN scheme asked SOI #1 to contact the IRS regarding some missing refund checks that were prepared by Andino. The associates told SOI#1 they were upset with Andino because they believed she was "stealing" refund checks.

18. During spring 2012, information source #5 (SOI#5), a resident of Mexico, approached an investigator with the Regional Security Office (RSO) with information regarding a fraudulent tax refund scheme. IRS-CI attachés in Mexico were contacted and developed the source and were told that the scheme was linked to Milwaukee, Wisconsin. SOI#5 was debriefed at the U.S. Embassy on June 12, 2012. SOI#5 used to reside in El Bayo and moved to Veracruz about three years ago. The source began to notice that people who had left El Bayo to work in the United States had started to accumulate things that they should not be able to afford legitimately, such as big houses and cars and trucks. People who had left El Bayo and had worked in the United States for ten or twelve years had not been able to accumulate the things that some of these people had accumulated after having "worked" in the United States for only one or two years.

19. The people in El Bayo who are participating in this ITIN fraud scheme are asking poor people for their documents, such as their voter registration cards, children's birth certificates, and vaccination booklets. The poor people are told they will receive some money if they turn over their personal documents to the scheme participants. The certified Mexican documents are either sent to Milwaukee via a shipping company or transported by people crossing the border.

### **Customs Border and Protection**

20. The Department of Homeland Security's Custom and Border Protection (CBP) agency, during routine checks of packages arriving and leaving Milwaukee's General Mitchell International Airport, began detaining packages of documents from Veracruz, Mexico, between approximately October 2011 and August 2012. In one instance a package of documents being sent to Veracruz, Mexico, was detained. These packages were shipped via DHL Express or FedEx.

21. CBP opened the packages, copied the documents inside, resealed the packages, and sent them on to their destinations. These documents included:

- Copies of Mexican voting registration cards,
- Mexican birth certificates, and
- Mexican school records.

## **Bank Records**

22. In January 2013, bank records were obtained from JP Morgan Chase. The records identified two bank accounts (x4178 and x2123) that Andino had opened on March 5, 2012. Both accounts are in the name of Marina's Income Tax Services LLC and Andino is the sole signer on both accounts. Within the first few months after the accounts were opened, most (96%) of the total deposits to the accounts were federal income tax refund checks that totaled \$214,681.97. The accounts had a limited number of withdrawals.

23. Based upon my training and experience, I submit that if Andino had been returning the proceeds of these tax refund checks to actual clients, the account would show a subsequent cash withdrawal of an amount approximating the amount of the tax refund check deposits. In addition, IRS Circular 230, which prescribes the responsibilities and rules for those who practice before the IRS, states that, under § 10.31, a practitioner who prepares tax returns may not endorse or otherwise negotiate any check that the government issues to the tax-preparer's client in respect of a federal tax liability.

24. The account records show that the majority of withdrawals from the account appear to be payments for personal expenses of Andino. For example, account records reflect the following personal expenditures made from the account:

- A \$10,000 check to Omid Jewelry. The memo line of the check references "Jewelry Investment,"
- Checks written to different individuals totaling over \$9,000 with "labor" referenced in the memo line,
- Tax payments to the IRS and Wisconsin Department of Revenue totaling over \$11,000, and
- Student and Auto Loan repayments totaling \$3,500.

25. A review of the federal income tax refund checks that were deposited into this account revealed that each refund check corresponded to a federal tax return that was prepared by Marina Andino. In total, 41 tax returns were prepared. The returns had characteristics of the ITIN scheme described above:

- All of the returns were filed using an ITIN;
- The majority of returns claimed Head of Household filing status;
- The returns contained wages with a Form W-2 and the wage amounts on the returns ranged from \$25,000 and \$35,000 dollars;
- All of the returns claimed the additional child tax credit;

- 30 of the returns used the address of 1121 West Oklahoma Avenue, which is the address of Andino's business, Marina's Income Tax Service;
- All of the returns had been signed by Marina Andino as the paid preparer of the return; and
- IRS-CI agents have attempted to verify the legitimacy of the 41 W-2 Forms filed with the tax returns. Of the 20 of the businesses contacted to date that purportedly issued any of those W-2s, all 20 stated that the employee and wage information on each of the W-2s was false. Therefore, all 20 of the tax returns relying on any of those 20 W-2 Forms were false and appear to have been fraudulently submitted to the IRS.

26. A review of the tax refund checks deposited into the Marina's Tax Services bank accounts (x4178 and x2123) revealed that all of the checks had been endorsed with a signature on the back of the check. The checks were then made payable to Marina's Tax Services and then endorsed by Andino or Marina's Tax Service.

27. I determined that six refund checks and their corresponding tax returns had documents intercepted by CBP. A review of those documents showed that a voting card was used as an identification document during the income tax preparation process. On the back of the voting card, the individual is required to sign the card. I compared the signatures on the voting cards with the signatures on the back of the checks deposited into Marina's Tax Services bank accounts and it does not appear to me that the signatures on the voting cards are the same as the signatures on the checks deposited into Marina's Tax Services account.

28. On August 20, 2012, JP Morgan froze the bank accounts (x4178 and x2123) of Andino due to suspicions of fraud. The total amount of money frozen was \$144,750.64. On February 28, 2013, JP Morgan Fraud Investigator Brandy Fry, who has been assigned to handle the frozen funds, contacted SA Jones. Fry told SA Jones that Andino has not contacted Fry about the funds being frozen. The lack of contact by Andino suggests she has essentially "walked away" from the funds.

29. All \$144,750.64 of the funds sought to be seized pursuant to the requested seizure warrant are currently being held in JP Morgan bank account no. x2123.

30. I submit that a restraining order under Title 21, United States Code, Section 853(e) may not be sufficient to assure the availability of the funds for forfeiture because I have been advised of cases in which, even after a restraining order or similar process has been issued to a financial institution, the funds sought to be restrained were not effectively restrained by the financial institution. In my judgment, a seizure warrant would be the most effective way to assure the availability of the money sought to be seized for forfeiture by the accompanying proposed seizure warrant.

## Conclusion

31. Based on the foregoing facts, I submit that there exists probable cause to believe that \$214,681.97 in federal income tax refund checks, which were originally deposited into both JP Morgan Chase Bank Account Nos. x4178 and x2123, in the name of Marina's Income Tax Services LLC, represent proceeds of the offense of theft of government property, committed in violation of 18 U.S.C. § 641.

32. I further submit that the approximately \$144,750.64 in funds now on deposit in JP Morgan Chase Bank Account No. x2123 is property that constitutes or is derived from proceeds traceable to the offense of theft of government property, in violation of 18 U.S.C. § 641, and that this amount of funds on deposit is therefore subject to civil and criminal forfeiture to the United States under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461.

33. I further submit that the property sought to be seized is subject to seizure under both the statute authorizing the issuance of civil seizure warrants, 18 U.S.C. § 981(b)(2), as well as the statute authorizing the issuance of criminal seizure warrants, 21 U.S.C. § 853(f), as made applicable by 28 U.S.C. § 2461(c).

# # #